

**IN RE COMPACT DISC MINIMUM
ADVERTISED PRICE ANTITRUST
LITIGATION**

II

*(This document applies only to
Trowbridge, et al. v. Sony Music
Entertainment, Inc., et al.)*

Counsel for the plaintiff class in this tagalong action (Trowbridge) against music club defendants has moved to supplement the record in light of concerns I expressed at the final fairness hearing on Thursday, May 22, 2003. He proposes to engage an economist to assess the quantitative value of the settlement to class members and file the resulting affidavit by June 10, 2003. While I did not formally declare the record closed as I did earlier in the hearing for the related Minimum Advertised Price consolidated class action, I did ask at the end of the hearing on Trowbridge whether the parties or objectors wanted to offer anything else. My intent and the purpose of the inquiry were clearly to conclude the hearing and close the record. No additional evidence was offered at that time. Certainly nothing occurred at the hearing that was surprising. I had expressed concerns about the value of the settlement at the preliminary hearing on October 15, 2002, and objectors who appeared spoke along the lines they had expressed in writing. Although the music club defendants do not object to the proposed supplementation, that is unsurprising since they are parties to the proposed

settlement. The more significant inquiry is the fairness to the objectors, both those who appeared and those who did not, and other class members. I think it best, therefore, not to reopen the record and not to defer ruling. See Lussier v. Runyon, 50 F.3d 1103 (1st Cir. 1995). Obviously, counsel can do as he chooses so far as engaging the expert is concerned. If my ruling appears before the affidavit is ready (my intent is to make an early ruling on both settlements), he can assess then whether the affidavit is helpful and, if so, what procedural remedies to seek at that point in light of my ruling.

SO ORDERED.

DATED THIS 27TH DAY OF MAY, 2003

D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE